

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

D'RON BOTTS,

Plaintiff,

v.

CORCORAN STATE PRISON, et al.,

Defendants.

Case No. 1:20-cv-01718-JLT (PC)

**ORDER DENYING MOTION FOR
WAIVER OF FILING FEE AND
DIRECTING CLERK OF THE COURT
TO CLOSE CASE**

(Doc. 18)

Plaintiff, a state prisoner proceeding *in forma pauperis*, has filed a motion to “drop this suit.” (Doc. 18.) The Court construes the motion as a notice of voluntary dismissal. Pursuant to Federal Rule of Civil Procedure 41(a)(1), a “plaintiff may dismiss an action without a court order by filing . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” Fed. R. Civ. P. 41(a)(1)(A)(i). Once a notice of dismissal under Rule 41(a)(1) is properly filed, no order of the court is necessary to effectuate dismissal; the dismissal is effective automatically. *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d 1074, 1078 (9th Cir. 1999). Because Plaintiff has filed a notice of dismissal, and no opposing party has filed an answer or a motion for summary judgment, this action has terminated. Accordingly, the Court **DIRECTS** the Clerk of the Court to close this case.

Plaintiff additionally requests that the Court not “charge [him] for this case.” (Doc. 18 at 1.) Prisoners proceeding *in forma pauperis* are “required to pay the full amount of a filing fee” of

1 any civil action they initiate. 28 U.S.C. § 1915(b)(1). The *in forma pauperis* statute provides that
2 prisoners “*shall* be required to pay the full amount of a filing fee,” and the “the prisoner *shall* be
3 required to make monthly payments of 20 percent of the preceding month’s income.” 28 U.S.C. §
4 1915(b)(1)-(2) (emphases added). Therefore, according to the statute, the Court does not have
5 discretion to waive the filing fee for this action. The filing fee obligations and payment amounts
6 are mandatory. *See, e.g., Soares v. Paramo*, No. 3:13-cv-02971-BTM-RBB, 2018 WL 5962728,
7 at *2 (S.D. Cal. 2018); *Cartwright v. Sparks*, No. 1:94-cv-06044-AWI, 2012 WL 394175, at *1
8 (E.D. Cal. 2012); *Adams v. Maricopa Cty. Sheriff’s Office*, No. 2:10-cv-01558-PHX-RCB, 2010
9 WL 4269528, at *1-2 (D. Ariz. 2010). Accordingly, the Court **DENIES** Plaintiff’s motion for a
10 waiver of the filing fee.

11
12 IT IS SO ORDERED.

13 Dated: August 31, 2021

/s/ Jennifer L. Thurston
CHIEF UNITED STATES MAGISTRATE JUDGE